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#3
Attorney Docket No. 047711-0286

United States Patent Application
DECLARATION UNDER 37 C.F.R. § 1.63

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **INFUSION DEVICE AND INLET STRUCTURE FOR SAME**

The specification of which

- a. ☐ is attached hereto.
b. ☒ was filed on December 27, 2001 as Application Serial No. 10/034,628, which I have reviewed and for which I solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- a. ☒ no such applications have been filed.
b. ☐ such applications have been filed as follows:

| FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119 | | | |
|--|--------------------|--------------------------------------|-------------------------------------|
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| | | | |
| ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S) | | | |
| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) |
| | | | |

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. PARENT APPLICATION NUMBER | PCT PARENT APPLICATION NUMBER | PARENT FILING DATE | PARENT PATENT NUMBER |
|-----------------------------------|-------------------------------------|--------------------|-------------------------|
| | | | |

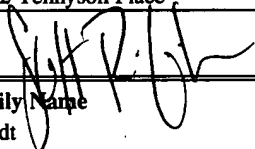

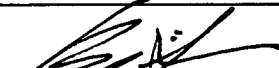
I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

| U.S. PROVISIONAL APPLICATION NUMBER | DATE OF FILING (Day, Month, Year) |
|-------------------------------------|-----------------------------------|
| 60/318,056 | 7, September, 2001 |

Please direct all correspondence in this case to Ted R. Rittmaster, Esq. at the address indicated below:

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East – Suite 3500
Los Angeles, CA 90067-3021

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| | | | | |
|--|-------------------------|--|--|--|
| 2 | Full Name Of Inventor | Family Name Gibson | First Given Name Scott | Second Given Name R. |
| 0 | Residence & Citizenship | City Granada Hills | State or Foreign Country California | Country of Citizenship US |
| 1 | Post Office Address | Post Office Address 17312 Tennyson Place | City Granada Hills | State & Zip Code/Country California 91344/US |
| Signature of Inventor 201:  | | | | Date 4-26-02 |
| 2 | Full Name Of Inventor | Family Name Brandt | First Given Name William | Second Given Name A. |
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| Signature of Inventor 202:  | | | | Date: 4/2/2002 |
| 2 | Full Name Of Inventor | Family Name Shen | First Given Name Benjamin | Second Given Name |
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| Signature of Inventor 203:  | | | | Date: 4-18-02 |

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim;
or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application:
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.



COPY OF PAPERS
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PATENT
047711-0286

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|-----------------------------------|---|-------------------------|
| In re Application of: |) | |
| Scott R. Gibson et al. |) | Group Art Unit: unknown |
| Serial No. 10/034,628 |) | |
| Filed: December 27, 2001 |) | Examiner: unknown |
| For: INFUSION DEVICE AND INLET |) | |
| STRUCTURE FOR SAME |) | |

POWER OF ATTORNEY BY ASSIGNEE
AND EXCLUSION OF INVENTOR UNDER RULE 3.71

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The undersigned **Kevin R. Sayer** is a representative authorized to sign on behalf of the assignee of the entire interest in the above-identified subject application, **MEDTRONIC MINIMED, INC.** and hereby appoints:

Paul H. Kovelman, Reg. No. 35,228;
Cary Talbot, Reg. No. 47,123;
Richard Yoon, Reg. No. 42,247;
Vivian Shin, Reg. No. 43,919;
Harold R. Patton, Reg. No. 22,157;
Girma Wolde-Michael, Reg. No. 36,724;
Thomas G. Berry, Reg. No. 31,736;
Kenneth J. Collier, Reg. No. 34,982;
Daniel W. Latham, Reg. No. 30,401;
Curtis D. Kinghorn, Reg. No. 33,926;
Thomas F. Woods, Reg. No. 36,726;
Beth L. McMahon, Reg. No. 41,987;
Eric R. Waldkoetter, Reg. No. 36,713;
Stephen W. Bauer, Reg. No. 32,192;
Michael Soldner, Reg. No. 41,455

and all of the firm of Foley & Lardner:

Ted R. Rittmaster, Reg. No. 32,933;
Irvin C. Harrington, III, Reg. No. 44,740

to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventor and his attorney in accordance with the provisions of Rule 32 of the Patent Office Rules of Practice.

MEDTRONIC MINIMED, INC., per 37 C.F.R. §3.73(b), certifies that the evidentiary documents with respect to its ownership have been reviewed and that to the best of the undersign's knowledge and belief, title is in the assignee seeking this action.

MEDTRONIC MINIMED, INC., declares that 100% ownership is established by an assignment to be in the Regular Utility Patent Application, and that the Inventors are under an obligation to assign the application to **MEDTRONIC MINIMED, INC.**

Please direct all telephone calls to Ted R. Rittmaster at (310) 975-7963 and all correspondence relative to said application to the following address:

Ted R. Rittmaster
Foley & Lardner
2029 Century Park East – Suite 3500
Los Angeles, CA 90067-3021

ASSIGNEE: **MEDTRONIC MINIMED, INC.**

Date: 4/30/02

Signature: _____



Kevin R. Sayer

Title:

Vice President & General Manager of External
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Address:

18000 Devonshire Street
Northridge, CA 91325-1219